IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

OP.No. 29974 of 1999(R)

PETITIONER:

B.VARGHESE, RESIDING AT QUARTERS,
OF THE DISTRICT SUPERINTENDENT OF POLICE,
CIVIL LINES, MALANKARA, KOTTAYAM.

BY ADV. SRI.V.G.ARUN

RESPONDENTS:
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1. **STATEOF KERALA, REP.BY THE**
SECRETARY TO GOVERNMENT, HOME DEPARTMENT,
SECRETARIAT, TRIVANDRUM.

2. **THE DIRECTOR GENERAL OF POLICE, TRIVANDRUM.**

BY GOVERNMENT PLEADER SRI.P.K.RAVIKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 01/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.51084/1999 IN OP. 29974/1999

DISMISSED

01.03.2007 **SD/- S.SIRI JAGAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE APPLICATION FILED BEFORE THE 1ST RESPONDENT DT.23.11.81

EXT.P2:- COPY OF THE LETTER DT.5.5.82 TO THE INSPECTOR GENERAL OF POLICE.

E.XT.P3:- COPY OF THE LETTER DT. 15.5.82.

.3EXT.P4:- COPY OF THE REPORT FROM THE INSPECTOR GENERAL OF POLICE DT. 20.4.98.

EXT.P5:- COPY OF THE LETTER DT.28.11.86 FROM THE GOVERNMENT.

EXT.P6:- COPY OF THE GOVERNMENT ORDER DT.16.10.96.

EXT.P7:- COPY OF THE PROCEEDINGS OF THE COMMISSIONER FOR GOVERNMENT EXAMINATIONS DT.9.1.07.

EXT.P8:- COPY OF THE REPRESENTATION BY THE PETITIONER DT.21.2.97.

EXT.P9:- COPY OF THE GOVERNMENT ORDER DT. 26.9.98.

EXT.P10:- COPY OF THE COUNTER AFFIDAVIT IN OP.398/99 DT.12.10.99.

EXT.P11:- COPY OF THE JUDGMENT IN OP. 398 OF 1999 DT.27.10.99 OF THIS HON'BLE COURT.

EXT.P12:- COPY OF THE COVERING LETTER DT.26.11.99 OF THE 2ND RESPONDENT ENCLOSING THE ORDER DT.25.11.99 OF THE GOVERNMENT.

EXT.P13:- COPY OF THE TELEGRAPHIC MESSAGE FROM THE 2ND RESPONDENT DT.26.11.99.

/TRUE COPY/

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S. SIRI JAGAN, J.

O.P.NO. 29974 OF 1999

DATED THIS THE 1st DAY OF MARCH, 2007

JUDGMENT

The petitioner was a District Superintendent of Police. He claims that his actual date of birth is 19.2.1945. However his school records showed his date of birth as 6.10.1944. This date of birth in the school records was entered in his service records also. The petitioner claims to have filed an application for correction of his date of birth on 28.11.86. However at that time, the school records continued to show his date of birth as 6.10.1944. He approached the authorities for the consideration of his application for correction of date of birth and this Court by Ext.P11 judgment directed the Government consider his application for correction of his date of birth afresh. The Government by Ext.P12 order, considered his application afresh in accordance with Ext.P11 judgment and rejected his claim on the ground of delay in apply. Going by G.O.(P)45/91/P&ARD dated 30.12.91, which required that the petitioner should have filed a proper application accompanied with the proof of the date of birth on or before 30.12.92. The Government found that the petitioner got his school records corrected only on 9.1.97 and submitted application for correction of date of birth

along with the corrected school record only on 21.2.97. The Government found that such an application was not in tune with the above said G.O. and on that ground rejected the application of the petitioner for correction of date of birth.

2. Accordingly the petitioner was also relieved from service since he was continuing even beyond the age of superannuation, going by his date of birth entered in his service records, by virtue of the direction in Ext.P11 judgment that the petitioner should be allowed to continue in service till orders are passed on his petition. Therefore he was relieved from duty pursuant to Ext.P13 teleprinter message dated, 26.11.99. The petitioner was to retire on 31.10.99, but continued till 26.11.99 on the basis of Ext.P11 judgment.

3. The petitioner challenges Exts.P12 and P13 on the ground that since the petitioner had submitted his application for correction of date of birth as early as in 23.11.1986, his application should not have been rejected on the ground of delay, although he could produce the corrected school records only after the period prescribed in the G.O.

4. The petitioner has no case that at any time before the issue of G.O.(P) No.45/91/P&ARD dated 30.12.91, the petitioner had submitted his corrected S.S.L.C. Book along with an application for correction of date of birth in the service records. That being so, what is applicable is the said G.O. for the purpose of consideration

of the petitioner's application for correction of date of birth. Since admittedly, the petitioner had got his date of birth corrected in the SSLC book only on 9.1.1997 and he bring the same before the Government for correction of his date of birth in the service record only on 21.2.97, which is not what is required as per the G.O., his application cannot be considered to be a proper application submitted in accordance with the above said G.O. That being so, I do not find any infirmity in Ext.P12 order and accordingly, the writ petition is dismissed.

5. As I have already mentioned although as per his original date of birth in the school records the date of retirement of the petitioner was on 31.10.99, he continued till 26.11.99 by virtue of Ext.P11 judgment. Since he had been continuing by virtue of an order of this Court and doing work remuneration paid to him for the period subsequent to 31.10.99 shall not be recovered from the petitioner. However for the purpose of calculation of his retirement benefits, he would be deemed to have retired on his original date of superannuation namely 31.10.99. His pensionary benefits shall be calculated accordingly.

With the above direction, the original petition is disposed of.

S. SIRI JAGAN, JUDGE

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